



STATE OF INDIANA

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On December 9, 2016, a formal complaint was filed after not receiving any further communications from the Clerk. On December 12, 2016, the attorney for the Clerk provided a partial response to the request.

The Respondents have provided documents pursuant to the requests and state after an exhaustive search, the City was only able to locate the lease agreement from an outside source. That record was sent to the Complainant on December 12, 2016. Additionally, the request for the amount paid annually to MIC is made available through the online Gateway for Government Units. The Indiana Gateway provides the specific information requested dating back to 2011. The City also notes they cannot fulfill the request in reference to the "separated per property" amounts, because the payments are made as single installments for both properties.

ANALYSIS

The public policy of the APRA states that "(p)roviding persons with information is an essential function of a representative government and an integral part of the routine duties of public officials and employees, whose duty it is to provide the information." *See Indiana Code § 5-14-3-1*. The City of Montpelier, Clerk-Treasurer is a public agency for the purposes of the APRA. *See Indiana Code § 5-14-3-2(n)*. Accordingly, any person has the right to inspect and copy the Clerk's disclosable public records during regular business hours unless the records are protected from disclosure as confidential or otherwise exempt under the APRA. *See Indiana Code § 5-14-3-3(a)*.

After the communication on December 12, 2016, it appears the Clerk has complied with the request to the best of its ability. In regards to the request for payments, the Clerk argues the information which the Complainant is seeking is accessible on the Indiana Gateway dating back to 2011. Pursuant to the statute, "A public agency may provide enhanced access to public records through the computer gateway administered by the office of technology established by *Indiana Code 5-14-3-3.6(f)*."

The production appears to be relevant to only one (1) parcel of the two (2) requested. The Clerk argues it has satisfied the request. It is important to note this Office, in most circumstances, does not require that a document exist, but only regulates the release of documents in existence and retained by a public agency. The Complainant argues the December 12, 2016 response is insufficient. This Office lacks the information required to determine whether the document should exist within the City's files, however, in the experience of this Office, lease agreements are fairly common documents to be housed and retained in the usual course of business.



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If further documentation is subsequently discovered regarding the lease agreement of the other parcel, it should be forwarded to the Complainant as soon as possible.

A handwritten signature in black ink, appearing to read "LHB", written over a horizontal line.

Luke H. Britt
Public Access Counselor

Distribution:

Mr. John H. Brooke, Esq.